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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/373,141

Applicant(s)

ISSA, GABRIEL N.

Examiner

PAUL A BELL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/22/2003 appeal brief.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/15/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. PROSECUTION IS HEREBY REOPENED and the finality of the 3/25/2003 office action is withdrawn. The Technology Center (TC) Director has given authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering a new grounds of rejection. SEE MPEP 1214.04 , MPEP 1214.07 and MPEP 1002.02 (c).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the value amount" in line 9. There is insufficient antecedent basis for this limitation in the claim. It is not clear is this referring back to "a monetary amount" in line 1 or is this a new term ? and if a new term what are the units for "a value amount" is it an integer like the number of items or is it like the monetary value having some dollar decimal value representing a total price of all items added up or is it a price of a individual item. This language makes it unclear the relationships of these terms in addition to there individual meaning which is essential to clear claim interpretation.

With regard to claim 32 in lines 9-12 the phrase; "receive a commitment to buy undiscounted value amount within the specified category of items at a minimum discount rate". This language is unclear because how is it possible for something to be

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both undiscounted (e.g. not have a discount) and have a discount at the same time, these term seem to contradict each other in the context of claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy (US 6,260,024) in view of Applicant's admitted prior art in specification (SEE page 1, line 12 to page 2, line 17) .

With regard to claim 1 Shkedy suggest a method for conducting an online auction of a monetary amount for a specified category of items (SEE Shkedy column 1, lines 7-16 ; "sellers over a network"....."such as the internet", column 3, lines 54-57 "A seller will be selected whose bid is the best. e.g. lowest price" and further see column 5, lines 9-10 "a buyer selects a category of goods or service to be purchased".),

the method comprising: receiving at a computer site at least one bid having a discount rate for the specified category of items being auctioned from a plurality of sellers registered to participate in the auction

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(SEE Shkedy column 1, lines 7-16 , “method for facilitating a transaction between a plurality of buyers, an intermediary, and a plurality of sellers over an electronic network.” , column 7, lines 21-25 , “buyers could indicate a minimum discount off the maximum offer price provided by the central controller 200 that a buyer would be willing to accept. The seller would then be notified of a maximum price he had to beat in order to bid. “ [it is obvious to one of ordinary skill that this language is suggestive of a seller needing to be able to figure out at what his the BID price needs to be in order to meet the “minimum discount off” as suggested by Shkedy in order to have a successful bid and sellers are motivated to do what ever it takes to make a sale as long as they can make some profit of the volume of sales.], and see column 6, lines 16-18 “the seller may be required to provide qualifications in order to view the PPOs of a given category” and column 10, lines 20-21 “Upon registration, the seller may be required to demonstrate evidence of ability to deliver on goods in each category” and in addition see column 7, line 26-41 whereby it teaches an example wherein the whole category of Office Supply is discounted 5% for a collective buyer pool is pre-negotiated and see column 10 lines 19-20 “discount schedule for large quantities etc.”),

receiving at the computer site a commitment to buy within the specified category of items at a minimum discount rate from at least one buyer registered to participate in the auction

(SEE Shkedy column 8, lines 49-50, “ A buyer is able to communicate his commitment to the pool” , column 7, lines 21-25 , “buyers could indicate a minimum discount off the maximum offer price provided by the central controller 200 that a buyer would be

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willing to accept", column 3, lines 5-8, "Another object of the present invention is to allow an intermediary to bind all buyers to the pool before the sale or bidding occurs", SEE column 5, lines 55-60, "The buyer has now consented to entering into a legally binding contract with the intermediary and will accept the best price that the intermediary determines in the bidding process subject to the condition that the buyer will pay no more for the item or service than the stipulated maximum offer price.", SEE column 10, lines 1-8, "Buyer database 255 maintains data on buyers with fields such as name, address, telephone number, credit card number, ID number, social security number, electronic mail address, smart card ID, credit history, public/private key information etc. This information is obtained when the buyer first registers with the system")

and declaring at least one successful seller of the value amount for the specified category of items based on the bid from the successful seller or, sellers having the greatest discount rate greater than or equal to the minimum discount rate and best meeting the buyer's individual conditions.

(SEE Shkedy column 3, lines 54-57 "A seller will be selected whose bid is the best. e.g. lowest price" [It is inherent that the seller with the "lowest price" would effectively also have the "greatest discount rate" in the Shkedy method and would have been a simple matter of math to figure out what the actual discount is based on what the lowest bid price was and a seller using the Shkedy method would have been motivated to in addition to telling the buyer what the lowest price bid was tell the buyer what discount that price inherently represents for example 75 % off because that is a

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positive inherent fact about the lowest price and buyer is more likely to be happy with his purchase when he knows how much that lowest price saves him], SEE column 5, lines 12-14, "At step 44, the buyer 16 adds a quantity specified along with any other required buyer specified conditions", SEE column 7, lines 21-25, "buyers could indicate a minimum discount off the maximum offer price provided by the central controller 200 that a buyer would be willing to accept"

With further regard to claim 1 Shkedy does not directly teach his method whereby, "A seller will be selected whose bid is the best. e.g. lowest price" is a type of "auction" as explicitly claimed in the preamble.

Applicant teaches in his admitted prior art sections about a "reverse type auction" which reads on Shkedy's above stated method. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Shkedy title of his method "A GLOBAL BILATERAL BUYER-DRIVEN SYSTEM" and simply just call it a "REVERSE AUCTION" as suggested by applicant's admitted prior art because one would have been motivated to call it "a reverse type auction" when advertising the auction because that was the standard phrase used for this type of auction and therefore the buying public would then be more likely to participate in the auction they clearly understand .

With regard to claim 2 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein a commitment to buy an undiscounted value amount at a minimum discount rate is received from each of a plurality of buyers and wherein the method further comprises pooling the plurality of

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buyers to obtain various pooled award amounts and wherein the at least one successful seller is declared of his respective pooled award amount for the specified category of items (SEE Shkedy column 2, lines 43-67).

With regard to claim 3 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the items are products (SEE Shkedy column 2, lines 43-67).

With regard to claim 4 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the items are services (SEE Shkedy column 2, lines 43-67) .

With regard to claim 5 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 2 wherein the plurality of buyers are independent and/or unrelated (SEE Shkedy column 2, lines 43-67).

With regard to claim 6 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 2 further comprising receiving at the computer site information representing a minimum award amount or predefined sequence of minimum award amounts corresponding to a predefined sequence of discount bids that each seller is willing to accept from the pooled buyers for a given category (SEE Shkedy column 7, lines 21-25, and column 29, lines 25-column 32, line 10).

With regard to claim 7 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 2 further comprising receiving at the computer site information representing a maximum award amount that a seller is

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capable of accepting and willing to accept from the pooled buyers (SEE Shkedy column 17, line 23-column 18, line 36).

With regard to claim 8 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 further comprising receiving at the computer site information representing a method of guaranteeing the value amount from the at least one buyer (SEE Shkedy column 22, line 61-column 23, line 50).

With regard to claim 9 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein at least one seller is pre approved to sell the specified category of items (SEE Shkedy column 23, line 51-column 24, line 45).

With regard to claim 10 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 further comprising receiving at the computer site information representing any sellers unacceptable to the at least one buyer (SEE Shkedy column 3, line 1-column 4, line 59).

With regard to claim 11 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the computer site is a Web site (SEE Shkedy column 1, line 31-column 2, line 23).

With regard to claim 12 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the auction is a reverse auction (SEE Shkedy column 21, line 3-column 22, line 25).

With regard to claim 13 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the auction ends a fixed period of time after the auction begins (SEE Shkedy column 22, line 61-column 23, line 28).

With regard to claim 14 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the preset auction expiration time (SEE Shkedy column 25, line 20-column 26, line 45).

With regard to claim 15 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the end of the auction (SEE Shkedy column 26, lines 46-64).

With regard to claim 16 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the successful seller is determined by the buyer's pre-defined conditions (SEE Shkedy column 27, line 8-column 27, line 62).

With regard to claim 17 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the seller with the highest bid for

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discount rate is the successful seller (SEE Shkedy column 28, line 62-column 29, line 18).

With regard to claim 18 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein there is more than one successful seller for a given auction (SEE Shkedy column 29, line 25-column 32, line 10).

With regard to claim 19 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein a buyer account is assigned to the registered buyer (SEE Shkedy column 6, line 18-column 7, line 4).

With regard to claim 20 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 19 wherein the buyer account includes various inter-linked sub-accounts (SEE Shkedy column 17, lines 23-60).

With regard to claim 21 the combination of Shkedy and Applicants admitted prior art teaches 21 the method as claimed in claim 20 wherein the sub-accounts are linked to at least one external account of the registered buyer held by a financial institution (SEE Shkedy column 18, lines 23-36).

With regard to claim 22 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 21 wherein the buyer's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (SEE Shkedy column 20, line 21-35).

With regard to claim 23 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 22 wherein the registered buyer can transfer

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funds or reassign buying power amounts to the account of another registered buyer or a registered seller (SEE Shkedy column 21, lines 3-45).

With regard to claim 24 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein a seller account is assigned to each registered seller (SEE Shkedy column 21, line 52-column 22, line 25).

With regard to claim 25 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 24 wherein the seller account includes various inter-linked sub-accounts (SEE Shkedy column 3, line 1-column 4, line 59, and column 17, line 23-column 18, line 36).

With regard to claim 26 the combination of Shkedy and Applicants admitted prior art teaches 26. The method as claimed in claim 25 wherein the sub-accounts are linked to at least one external account of the at least one seller held by a financial institution (SEE Shkedy column 21, lines 3-45).

With regard to claim 27 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 26 wherein the seller's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (SEE Shkedy column 21, line 52-column 22, line 7).

With regard to claim 28 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 27 wherein the at least one registered seller can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller (SEE Shkedy column 22, line 8-25).

With regard to claim 29 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the step of receiving at least one bid includes receiving a bidding table for at least one seller in which the at least one seller commits to a sequence of bids corresponding to a sequence of value amounts for a given category (SEE Shkedy column 22, line 61-column 23, line 50).

With regard to claim 30 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein each of the sellers is pre approved to sell the specified category of items (SEE Shkedy column 23, line 51-column 24, line 45).

With regard to claim 31 the combination of Shkedy and Applicants admitted prior art teaches the method as claimed in claim 1 wherein the auction ends an undetermined period of time after the auction begins (SEE Shkedy column 17, line 23-column 18, line 36).

With regard to apparatus claim 32 the combination of Shkedy and Applicants admitted prior art was found already above in method claim 1 to read on most of the limitations of apparatus claim 32 and in addition the applicant is claiming a computer site for conducting an online auction (See Shkedy figure 1 item 200 "CENTRAL CONTROLLER" which reads on computer site), a set of related documents and associated files (SEE Shkedy figure 1, item 265, "PPO DATABASE" where documents and files are stored also see figure 2 item 250 "DATABASE STORAGE DEVICE"), and a server for serving up the set of related documents and associated files to a plurality of I/O devices to provide buyers and sellers with capability to participate in the

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auction(See Shkedy figure 1 item 200 "CENTRAL CONTROLLER" which reads on server also see column 5, lines 5-6 "The central controller 200 is preferably located at a remote server") the server being programmed with application software to (it is essential to proper that a server be programmed with application software)

With regard to claim 33 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein a commitment to buy an undiscounted value amount at a minimum discount rate is received from each of a plurality of buyers and wherein the server is further programmed to pool the plurality of buyers to obtain various pooled award amounts and wherein the at least one successful seller is declared his respective pooled award amount for the specified category of items (SEE Shkedy column 2, lines 43-67).

With regard to claim 34 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the items are products (SEE Shkedy column 2, lines 43-67).

With regard to claim 35 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the items are services (SEE Shkedy column 2, lines 43-67).

With regard to claim 36 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 33 wherein the plurality of buyers are independent and/or unrelated (SEE Shkedy column 2, lines 43-67).

With regard to claim 37 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 33 further comprising receiving at the

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computer site information representing a minimum award amount or predefined sequence of minimum award amounts corresponding to a predefined sequence of discount bids that each seller is willing to accept from the pooled buyers for a given category (SEE Shkedy column 7, lines 21-25, and column 29, line 25-column 32, line 10).

With regard to claim 38 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 33 further comprising receiving at the computer site information representing a maximum award amount that a seller is capable of accepting and willing to accept from the pooled buyers (SEE Shkedy column 17, line 23-column 18, line 36).

With regard to claim 39 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the server is further programmed to receive information representing a method of guaranteeing the value amount from the at least one buyer (SEE Shkedy column 22, line 61-column 23, line 50).

With regard to claim 40 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein at least one seller is pre-approved to sell the specified category of items (SEE Shkedy column 23, line 51-column 24, line 45).

With regard to claim 41 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the server is further

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programmed to receive information representing any sellers unacceptable to the at least one buyer (SEE Shkedy column 3, line 1-column 4, line 59).

With regard to claim 42 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the computer site is a Web site (SEE Shkedy column 1, line 31-column 2, line 23).

With regard to claim 43 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the auction is a reverse auction (SEE Shkedy column 21, line 3-column 22, line 25).

With regard to claim 44 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the auction ends a fixed period of time after the auction begins (SEE Shkedy column 22, line 61-column 23, line 28).

With regard to claim 45 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 further comprising receiving at the computer site a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least one buyer can be declared before the preset auction expiration time (SEE Shkedy column 25, line 20-column 26, line 45).

With regard to claim 46 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the server is further programmed to receive a command from the at least one buyer to try to end the auction for the at least one buyer wherein a successful seller of the value amount for the at least

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one buyer can be declared before the end of the auction (SEE Shkedy column 26, lines 46-64).

With regard to claim 47 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the successful seller is determined by the buyer's pre-defined conditions (SEE Shkedy column 27, line 8-column 27, line 62).

With regard to claim 48 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the seller with the highest bid for discount rate is the successful seller(SEE Shkedy column 28, line 62-column 29, line 18).

With regard to claim 49 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein there is more than one successful seller for a given auction(SEE Shkedy column 29, line 25-column 32, line 10).

With regard to claim 50 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein a buyer account is assigned to the registered buyer(SEE Shkedy column 6, line 18-column 7, line 4).

With regard to claim 51 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 50 wherein the buyer account includes various inter-linked sub-accounts (SEE Shkedy column 17, lines 23-60).

With regard to claim 52 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 51 wherein the sub-accounts are

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linked to at least one external account of the registered buyer held by a financial institution (SEE Shkedy column 18, lines 23-36).

With regard to claim 53 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 52 wherein the °buyer's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (SEE Shkedy column 20, lines 21-35).

With regard to claim 54 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 53 wherein the registered buyer can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller(SEE Shkedy column 21, lines 3-45).

With regard to claim 55 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein a seller account is assigned to each registered seller(SEE Shkedy column 21, lines 52-column 22, line 25).

With regard to claim 56 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 55 wherein the seller account includes various inter-linked sub-accounts (SEE Shkedy column 3, line 1,-column 4, line 59, and column 17, line 23-column 18, line 36).

With regard to claim 57 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 56 wherein the sub-accounts are

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linked to at least one external account of the at least one seller held by a financial institution (SEE Shkedy column 21, lines 3-45).

With regard to claim 58 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 57 wherein the seller's funds can be transferred between the various sub-accounts and also between the sub-accounts and external accounts held by other financial institutions (SEE Shkedy column 21, line 52-column 22, line 7).

With regard to claim 59 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 58 wherein the at least one registered seller can transfer funds or reassign buying power amounts to the account of another registered buyer or a registered seller (SEE Shkedy column 22, lines 8-25).

With regard to claim 60 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the server is further programmed to receive a bidding table for at least one seller in which the at least one seller commits to a sequence of bids corresponding to a sequence of value amounts for a given category (SEE Shkedy column 22, line 61-column 23, line 50).

With regard to claim 61 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein each of the sellers is pre-approved to sell the specified category of items (SEE Shkedy column 23, line 51-column 24, line 45).

With regard to claim 62 the combination of Shkedy and Applicants admitted prior art teaches the computer site as claimed in claim 32 wherein the auction ends an

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undetermined period of time after the auction begins (SEE Shkedy column 17, line 23- column 18, line 36).

6. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedy in view of Applicant's admitted prior art and "ECOMMERCE / BUYING SERVICE COUNTS ON STRENGTH IN NUMBERS" THE WASHINGTON POST. Newsday (combined editions).

With regard to apparatus claim 63 the combination of Shkedy and Applicants admitted prior art was found already above in claims 1-62 to read on most of the limitations of apparatus claim 63 .

The combination of Shkedy and Applicants admitted prior art does not directly teach "negotiating discount credits between sellers offering at least one pre-defined category of goods or service items and buyers wishing to purchase goods or service items selected from said category" and "buyers in communicating willingness to purchase items selected from a pre-defined category at a negotiated category discount" . Shkedy instead only teaches of a single seller in column 7, line 26-41 an example wherein the whole category of Office Supply is discounted 5% for a collective buyer pool is pre-negotiated and also see Shkey column 10 lines 19-20, "discount schedule for large quantities etc.".

THE WASHINGTON POST teaches; "Instead of making consumers compete, as they do in auctions, Accompany allows them to cooperate by negotiating volume discounts on their behalf. Prices drop as more buyers sign up"..... "How will it work? Say you want a Palm Pilot. You go to www.accompany.com and find a "buy cycle" for a

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particular model. That's what Accompany calls the period of time an item is offered, and it's illustrated with a graphic showing the current number of committed buyers, the SCHEDULE OF DISCOUNTS that will kick in as more people join the group and the time remaining."

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Shkedy and Applicants admitted prior art to pre-negotiate with multiple sellers as suggested by THE WASHINGTON POST because to do so will increase the chances of getting the best discount.

In addition Shkedy teaches "a first interface" in figure 1 item 350 "SELLER MODEM" and a second interface item 300 "SELLER INTERFACE", with further regard to claim 63 the auction system further having a compilation system that analyzes the bid data to present information to sellers through the second interface indicative of the aggregate commitment amounts associated with different requested discounts (see THE WASHINGTON POST "That's what Accompany calls the period of time an item is offered, and it's illustrated with a graphic showing the current number of committed buyers, the SCHEDULE OF DISCOUNTS that will kick in as more people join the group and the time remaining.")

Response to Arguments

7. Applicant's arguments with respect to claims 1, 32 and 63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Pallakoff (US 6,269,343) teaches in his Abstract "A seller can therefor offer volume discounts to buyers acting as a group, even when the buyers may not have any formal relationship with one Another".

Ojha et al. (6,598,026) teaches in column 3, lines 44-58 Each buyer's reputation is made available to sellers on the site for use as they see fit. For example, a seller could choose to respond only to bids from buyers who have a reputation which is of a certain level. Alternatively, a seller could choose to respond unfavorably to such buyers, thus giving the buyer immediate feedback and incentive to adjust her bid accordingly. In addition, a seller could give preferential treatment, e.g., discounts, to buyers with very good reputations. Thus, buyers would tend to conduct transactions in a responsible manner to protect their reputations from being damaged and to receive preferential treatment. This approach has many of the advantages of requiring a credit card or other payment identifier without presenting a significant barrier to entry and without making simultaneous negotiation impracticable.

Bezos et al. (US 6,606,608) teaches in column 3, lines 13-24, "Many different discount criteria can be used to encourage bidders to bid at an auction". For example, the auction system may allow successive bidders to be eligible for successively smaller discounts. That is, the first bidder may receive a 10% discount, and the second bidder may receive a 5% discount. Also, the discount criteria can be independent of the order in which the bidders placed their first bids. For example, a winning bidder who places a bid that is at least 5% larger than the second highest bid may receive a 10% discount. Such a discount criteria may encourage bidders to bid at least 5% more than the current highest bid".

"BIDDING WAR LOOK BEFORE YOU LEAP AT INTERNET AUCTION SITES"
[CHICAGOLAND FINAL Edition] Chicago Tribune. Chicago, Ill: May 2, 1999. p 4
Teaches; "And there are reverse auctions, in which you research a trip yourself, seek out the lowest price, make a tentative reservation an then list the trip on the auction site (such as www.travelbids.com). Travel agents bid for it, and the one who offers the biggest discount gets your business and does the ticketing".

Leslie Walker, "BUYERS IN SEARCH OF SELLERS", [FINAL EDITION] "The Washington Post. Washington, D.C.: Aug 12, 1999. p E01 Teaches "The new services debuting this summer which include eWanted.com, Respond.com, NexTag.com, lmandi.com and Mygeek.com fall into the "reverse" shopping-agent category" "Sellers can see one another's bids, putting pressure on them to drop prices. Ewanted, like most of the new services, keeps buyer's identities secret until purchasing time so people won't have to worry about looking like cheapskates"....but software coming soon will also allow eWanted buyer to invite sellers to a private "negotiating table" where they can haggle over prices in real time".

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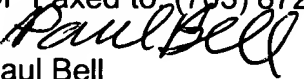
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Bell whose telephone number is (703) 306-3019. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached at 703-308-0505.

Information regarding the status of an application may be obtained from Patent Application Information Retrieval (PAIR) system, see <http://pair-direct.uspto.gov>. For help with PAIR call Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231


Or Faxed to: (703) 872-9306



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Art unit 3628

February 8, 2005


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